THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 17925 of 1999

DATED 18-08-2005

Between:

M.Mahender.

..... PETITIONER

AND

The Presiding Officer,
Labour Court-II, Hyderabad and another.

.....RESPONDENTS

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ORDER:

This writ petition is filed by the workman being aggrieved by the Award made in I.D.No.175 of 1996, dated 26-03-1999, on the file of the Labour Court III, Hyderabad, wherein the petition filed by the petitioner under Section 2A(2) of (A.P.Amendment Act 32 of 87) Industrial Disputes Act, 1947 (for short "I.D.Act") was rejected.

It is the case of the petitioner that he was appointed as a conductor in A.P.S.R.T.C. in the year 1992 and he was attached to A.P.S.R.T.C. bus depot Jeedimetla, Medak

District. While so, when he was conducting bus AP 9Z 9200 on route 183, between ESI to Jeedimetla on 11-12-1995 at about 15.15 hours, a surprise check was exercised by the checking officials at stage No.10, IDPL Factory, and certain cash irregularities were found and a charge memo was issued. Thereafter, a charge-sheet was issued on 19-12-1995 on the basis of the report of the checking officials, enumerating as many as six charges. The petitioner submitted his explanation for the same, but the respondents have ordered detailed enquiry into the matter. The Enquiry Officer submitted his report holding the petitioner guilty of the charges. The 2nd respondent-Management after accepting the Enquiry Officer's report passed an order of removal from service on 28-05-1996. Aggrieved by the same, the petitioner filed appeal before the Deputy Chief Traffic Manager, Sanathnagar, and it was dismissed on 03-07-1996. Therefore, having no other option, the petitioner raised a dispute under Section 2A(2) of I.D.Act and the same was taken on the file of the Labour Court III, Hyderabad, as I.D.No.175 of 1996. Before the Labour Court, on behalf of the 2nd respondent-Management, Exs.M-1 to M-17 were marked and no oral evidence was adduced by either side and no documents were marked by the petitioner-workman. However, the Labour Court came to the conclusion that the charges are serious in nature, therefore, the punishment of removal from service is quite justifiable and dismissed the claim petition filed by the petitioner herein. According to the learned counsel for the petitioner, the Labour Court has not properly appreciated the facts and circumstances of the case as to the proving of charges and further it did not exercise the power vested under Section 11-A of the Industrial Disputes Act. Therefore, the Award passed by the Labour Court is liable to be set aside.

Though no counter is filed, the learned counsel for the 2nd respondent-Management strenuously contended that the charges are grave in nature and the Labour Court

had rightly came to the conclusion that the petitioner was found guilty of the charges and it does not deserve any lenience to be shown for the purpose of granting any relief. The Award passed by the Labour Court is just, proper and valid and it does not call for interference by this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the award under challenge and the other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error warranting interference by this Court under Article 226 of the Constitution of India as no legal infirmity has been brought to the notice of this Court. Insofar as finding of the charges as proved, by the Labour Court, is concerned, no interference can be made by this Court because in all the six charges, as many as 28 tickets were involved, which were issued against the individual passengers, who boarded the bus at various stages. The contention of the learned counsel for the petitioner that the petitioner has wrongly punched those 28 tickets cannot be accepted. The Labour Court had rightly found further that the reasons best known to the petitioner all the 28 tickets were not counted in the S.R., which is a very serious nature of misconduct. If one or two tickets are not punched properly, one can consider it as a mistake. But, this is not one such case. Further the explanation submitted by the petitioner to that effect that he was in Ayyappamala and observing fast and thereby he was getting giddiness is only an after thought. The Labour Court had categorically found that the misconduct committed by the petitioner is knowingly committed, to defraud the revenues of the Corporation and the same is serious in nature. I am in full agreement with the findings of the Labour Court that a person, who has wrongly punched 28 individual tickets, cannot be said to be an innocent man or the same was committed by any mistake or oversight. The misconduct on the part of the petitioner is wanton, may be, he wanted to use those tickets in the further

journey.

For all the above reasons, I am of the considered opinion that the Labour Court has not committed any error in coming to the conclusion that the charges were proved and the petitioner does not deserve any relief calling for interference by this Court under Article 226 of the Constitution of India.

The writ petition is devoid of merit and the same is liable to be dismissed. No order as to costs.

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C.V.RAMULU, J

Date:18-08-2005

Prv